

# Buyer Terms and Conditions

These Buyer Terms and Conditions (“Agreement”) are made between Matmatch GmbH (“Matmatch”) and the party using the Service as a buyer, i.e. as a party interested in finding information about materials and their applications (“Buyer”, Matmatch and Buyer each referred to as a “Party” and, collectively as the “Parties”).

## 1. The Service

**1.1 Matmatch Materials Database and Platform.** Through its Internet platform at Matmatch.com (“Service”), with a searchable materials database at its core, Matmatch helps buyers who are interested in materials find, evaluate and source materials for their projects by aggregating and providing access to third party data on such materials. For suppliers of materials (“Suppliers”), the Service creates the opportunity to promote their products and reach quality buyers.

**1.2 Data sources.** The data on materials properties, applications and sources that is displayed through the Service is provided by third parties including the Suppliers. Matmatch does not review such data for accuracy, but will remove data should it become aware that such data is inaccurate. The source of the data relating to certain materials is displayed through the Service. Where such source is given as “Matmatch”, the respective data has been aggregated from multiple third party sources by Matmatch; in such case, detailed information on the sources will be provided by Matmatch upon Buyer’s written request.

**1.3 Buyer Account.** Buyer will have the option to establish an account for the use of the Service by Buyer at Matmatch.com (“Account”), such Account being required for the use of certain features of the Service. Buyer agrees to keep access data, such as login data, passwords, and other data required in order to access the Service, strictly confidential and not to disclose such data to any third party without Matmatch’s prior written consent.

**1.4 Use of the Service by Buyer.** Buyer must be at least eighteen (18) years old or older if a different minimum legal age limit is required by local law to use the Service. Buyer may use the Service to find, evaluate and source materials and learn about certain possible applications suggested by third parties including the Suppliers. Buyer may not, however, solely rely on information from the Service when implementing materials-based projects. Buyer remains solely responsible to ensure that certain materials are fit and safe for the purposes or use cases intended or anticipated by the Buyer and meet all applicable legislative, regulatory and industry standards requirements. Matmatch is neither able nor



obligated to review the third-party information provided through the Service nor to review or analyze the Buyer's purposes.

**1.5 Buyer's Responsibilities.** The Buyer shall ensure that (i) all information submitted as part of the Service is accurate and current, and that it will keep such information updated during the Term, and (ii) that it will treat any personal data of third parties, including but not limited to that of Suppliers, that it may receive as part of the Service in accordance with its contractual obligations and applicable law. Matmatch does not review the information provided by Buyer, but it reserves the right to take offline and remove information when there are reasonable grounds for suspicion that it may be inaccurate. In such case, Matmatch shall have the right to terminate the Buyer's use of the Service for cause and with immediate effect.

**1.6 Consumers' Right of Withdrawal.** Buyers who are entering into a contract – including this Agreement – with Matmatch as a consumer (i.e., for purposes which are outside their trade, business, craft or profession) have the rights to withdraw from such contracts as specified in the Matmatch Withdrawal Information available [on this page](#).

## 2. Rights

**2.1 Rights ownership.** All data, texts, logos and other images (still or moving), including but not limited to data concerning materials and their names, properties, and sources (together the "Data"), are the sole property of Matmatch, the Suppliers, and/or their respective licensors. Buyer shall have no right to databases created by Matmatch and/or its licensees.

**2.2 License.** Subject to the terms of this Agreement, Matmatch grants to Buyer a limited, worldwide, revocable, non-exclusive, non-transferable and non-sub-licensable license to view the Data through the Service and to use the Data for Buyer's own purposes. For clarity, Buyer shall not have the right to sell, rent or otherwise distribute the Data to any third parties or to include the Data in databases for display to or use by third parties. Buyer shall not engage in screen scraping, database scraping, use spiders or crawlers, or otherwise use automated technical means to obtain lists of users, portions of a database, or other lists or information from the Service in any manner not authorized by Matmatch.

## 3. Personal Data

Matmatch will treat personal data of the Buyer in accordance with the Matmatch Privacy Policy available [on this page](#).

## 4. Quality, Availability, Modifications and Disruptions

**4.1 Quality and Availability.** Matmatch shall provide the Service in accordance with the recognized state of the art and the care of a prudent business person. Matmatch shall maintain an availability of the Service of no less than 97% averaged per calendar month.

**4.2 Modifications.** The Service will be updated and developed continuously over time. Matmatch may modify the Service without prior notice and provided that the modification is reasonable taking into account the interests of the Buyer. A modification shall, in particular, not be unreasonable for the Buyer if it is necessary to adapt the Service to changed circumstances with regard to technological developments, market requirements, changes in the applicable law, and in case of any new features, functions, or services added to the Service. Therefore, the Buyer is granted a right of use only for the then-current version of the Service. If a modification of the Service is not reasonably acceptable for Buyer, Buyer shall have the right to terminate the Agreement upon notice with immediate effect. Buyer shall have no other claims against Matmatch due to modifications to the Service within the scope of this Section 4.2.

**4.3 Disruption of Service.** If Matmatch cannot supply the Service to the Buyer for reasons not under the control of Matmatch (“Disruption of Service”), Matmatch will inform the Buyer without undue delay, at the same time – if possible – indicating when the Disruption of Service is expected to be resolved. If a Disruption of Service continues for four (4) weeks, either Party may terminate the Agreement upon notice to the other Party with immediate effect. The prevention of the timely provision of the Service by force majeure, i.e., by events which cannot reasonably be foreseen and averted by Matmatch by taking reasonable precautions, such as war, acts of terrorism, unrest, disaster, sabotage, and attacks by third parties, strikes in areas for whose functioning Matmatch is not responsible or failure of communications networks or systems of a third party for which Matmatch is not responsible (including where such a case of force majeure occurs at one of Matmatch’s subcontractors or suppliers) shall be considered to be a Disruption of Service. The statutory rights of termination of each Party in the case of a Disruption of Service remain unaffected.

## 5. Liability of Matmatch

5.1 Subject to Sections 5.2 and 5.4, Matmatch shall be liable for damages and futile expenses (jointly the “Damages”) caused to Buyer pursuant to statutory law.

5.2 The liability of Matmatch for Damages of Buyer (irrespective of the legal nature of the claim, whether under contract, tort, or otherwise),

- caused by (i) a breach of material contractual obligations of Matmatch under the Agreement with ordinary negligence (einfache Fahrlässigkeit), or (ii) a breach of non-material obligations by employees or vicarious agents of Matmatch who are not legal representatives or executive officers (leitende Angestellte) of Matmatch with gross negligence (grobe Fahrlässigkeit), shall be limited to those Damages foreseeable at the time of the conclusion of the Agreement that typically arise in transactions of this kind;
- caused by a breach of non-material obligations under the Agreement with ordinary negligence (einfache Fahrlässigkeit) shall be excluded; and
- caused by a defect of the Service that already existed at the conclusion of the Agreement shall be excluded, provided that the Damages were not caused by negligence or willful intent of Matmatch.

5.3 For the purposes of this Agreement, a material contractual obligation of Matmatch is an obligation, the fulfilment of which is a prerequisite for enabling the proper fulfilment of the Agreement and on the fulfilment of which the Buyer regularly relies and may rely.

5.4 If Matmatch provides the Service to the Buyer free of charge, Matmatch's liability for Damages caused to Buyer shall be limited to Damages caused by Matmatch with gross negligence (grobe Fahrlässigkeit) or willful intent (Vorsatz).

5.5 Notwithstanding Sections 5.2 and 5.4, nothing in this Agreement shall limit the liability of Matmatch for Damages arising from death or personal injury, from breach of a contractual guarantee as to the quality of goods or services or, in case of any other liability pursuant to applicable mandatory law, where such liability cannot be excluded or limited by agreement between the Parties in advance (e.g., under section 1 of the German Product Liability Act).

5.6 The above-mentioned limitations to liability apply accordingly to the liability of employees, executive officers, legal representatives and vicarious agents of Matmatch.

## 6. General Provisions

**6.1 Entire Agreement.** The Agreement is the entire agreement between the Parties relating to its subject matter and supersedes all previous written and oral agreements in this regard. No further verbal or written agreements, arrangements, or commitments with respect to the subject matter of the Agreement exist.

**6.2 Severability.** If any provision of the Agreement is found by a competent court to be unenforceable or invalid under applicable law, the validity of the remaining provisions shall not be affected. The Parties shall replace any invalid or unenforceable provision and remove any omission by a valid and enforceable provision that the Parties would have agreed on in good faith if they had been aware of the invalid or unenforceable provision or the omission when entering into the Agreement.

**6.3 Modifications to the Agreement.** Matmatch reserves the right to change or amend the Agreement at any time with effect for the future. Any change or amendment will be announced to Buyer in writing, by email and/or by display in the Account at least two (2) weeks prior to its effective date and will state the effective date of such change or amendment.

Buyer has the right to object to any change or amendment of the Agreement within two (2) weeks after the date of receipt of the notification of such change or amendment. In case of a timely objection, each Party is entitled to terminate the Agreement for cause upon notice to the other Party, such termination to take effect on the effective date of the change or amendment that gave cause to the objection. If Buyer does not object within the objection period, the change or amendment shall be deemed accepted by Buyer and become part of the Agreement.

In its notification, Matmatch will inform Buyer of Buyer's right to object within two (2) weeks, both Parties' rights to terminate the Agreement in case of such objection, and the legal consequences of non-objection.

**6.4 Governing Law.** The Agreement, including any obligations, rights, and claims of the Parties arising out of or in connection with the Agreement, any questions regarding its valid conclusion, and any amendments hereto – irrespective of their legal grounds (e.g., under contract, tort or otherwise) – shall be exclusively governed by and construed in accordance with the laws of the Federal Republic of Germany, excluding its conflicts of laws provisions. If the Buyer is a consumer within the scope of Regulation (EC) No 593/2008, the foregoing choice of governing law shall not have the result of depriving the Buyer of the protection afforded to him by provisions that cannot be derogated from by agreement by virtue of the laws applicable where the Buyer habitually resides.

**6.5 Jurisdiction of the German courts.** If the Buyer is not a consumer within the scope of Regulation (EU) No 1215/2012, the competent courts of Germany shall have exclusive jurisdiction over any claim, dispute or action arising under or in connection with the Agreement, including disputes on its valid conclusion, irrespective of the legal nature of such dispute, claim, or action, except that Matmatch, at its option, shall also be allowed to bring suit at the seat of the Buyer.

**6.6 Jurisdiction of the Munich courts.** If (i) the Buyer is a merchant (Kaufmann) within the scope of the German Commercial Code (HGB) with its seat in Germany or (ii) the Buyer has its seat outside of Germany and is not a consumer within the scope of Regulation (EU) No 1215/2012, the competent courts in Munich, Germany, shall have exclusive jurisdiction over any claim, dispute, or action arising under or in connection with the Agreement, including disputes on its valid conclusion, irrespective of the legal nature of such dispute, claim, or action, except that Matmatch, at its option, shall also be allowed to bring suit at the seat of the Buyer. Mandatory statutory provisions on the exclusive jurisdiction of certain courts shall not be affected by the foregoing provisions.

**6.7 Assignment.** Neither Party shall assign the Agreement or any rights or obligations thereunder to any third party without the prior written consent of the other Party. Notwithstanding the foregoing, (a) either Party may assign without consent of the other Party to any third party any claim under the Agreement that has been recognized in writing



by the other Party or confirmed by final judgment of a competent court; (b) Matmatch may assign the entire Agreement pursuant to a merger or a sale of all or substantially all of its assets or capital stock; or (c) Matmatch may assign the entire Agreement to any successor or assignee of all or substantially all of its business. Subject to the foregoing restriction on assignments, the Agreement shall be fully binding upon, inure to the benefit of, and be enforceable by the Parties and their respective successors and assigns. Except as permitted by the foregoing, any attempted assignment or delegation will be void.